Judge Marc L. Barreca
Hearing Location: Room 7106
700 Stewart St., Seattle, WA 98101
Hearing date: August 30, 2013
Hearing time: 9:30 a.m.
Response due: August 23, 2013

UNITED STATES BANKRUPTCY COURT FOR
THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

IN RE: ADAM GROSSMAN, Debtor.	CHAPTER 7 CASE NO. 10-19817 TRUSTEE'S MOTION FOR ORDER ALLOWING AND DISALLOWING CLAIMS AND GRANTING RELATED RELIEF; AND NOTICE OF HEARING

TO: Creditors, Parties-in-Interest, the Debtor and the Clerk of the Court

I. NOTICE

PLEASE TAKE NOTICE that a hearing on the below motion shall occur on **Friday, August 30, 2013 at 9:30 a.m. before Judge Marc L. Barreca, at the U.S. Bankruptcy Court, in Room 7106, U.S. Courthouse, 700 Stewart Avenue, Seattle, Washington 98101.** The Clerk is requested to note the motion on the docket for that date and time.

YOU ARE FURTHER NOTIFIED that, in accordance with local rules, any response or objection to the motion (including any disagreement with the classification or priority proposed for any claim) must be made in writing and filed with the US Bankruptcy Court, in Room 6301, US Courthouse, 700 Stewart Street, Seattle, Washington 98101; and a copy of any such response or objection must be served upon Judge Barreca via the Court's electronic case filing ("ECF") system or via the Office of the Clerk of the Court and upon the undersigned **no later than the "Responses due" date shown in the upper right hand corner of this pleading (hereinafter, the "Response Date")**. If responses or objections are not timely filed, the Court may strike the hearing and grant the relief requested in the

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motion on an ex parte basis.

II. MOTION

The Trustee moves the Court for entry of an order as follows: (1) sustaining the Trustee's objections to the claims proposed for disallowance below and disallowing said claims[1]; (2) allowing the claims proposed for allowance below; (3) approving the proposed characterization of the claims set forth below in regard to their status as marital community claims or separate claims to account for the treatment of said claims pursuant to §§541(a) and 726(c); and (4) providing that no other claims shall be allowed except as the Court may order at a later date.

Sections 541(a) and 726(c) establishes a hierarchy within the bankruptcy estate for treatment of estate assets and allowed claims depending upon the status or character of an asset and a claim (i.e., whether the funds in the bankruptcy estate were derived from property that was an asset of the debtor's marital community or a separate asset of the debtor; and whether a claim was against the debtor's marital community or only against the debtor as a separate liability). *See*, ¶541.11 and ¶726.05 Collier on Bankruptcy (16th ed.) at 541-61 through 541-65 and 726-19 – 726-31. Section 726(c) is construed as establishing "sub-estates" whereby, in general, the character of funds in the estate are matched with claims of similar character. *Id.* Thus, for example, the funds in an estate derived from a debtor's marital community property would be subject to distribution for allowed marital community claims and funds in an estate derived from a debtor's separate property would be subject to distribution for allowed claims that are based upon the debtor's separate liability in regard to such claims.[2] In the present case, §726(c) may apply and, accordingly, as part of the relief sought in this motion, the Trustee proposes what he

[1] The Trustee has filed separate objections/motions as to each of these claims. Those objections are set for hearing on the same date as the hearing on the present motion. The proposed order filed herewith encompasses the relief requested in those objection and the present motion.

[2] There is presently about $99,697.00 in the estate. The extent of all administrative claims and/or the allowance thereof has yet to be determined. Creditors are advised that it is unknown at this time whether there will be sufficient funds in the estate to make a distribution to holders of allowed claims beyond administrative claims. Further notice will be issued as to the foregoing when more definitive information is known in regard thereto.

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believes is the appropriate characterization or status of each claim designated for allowance below.

PLEASE NOTE that the Clerk has assigned a number to each proof of claim filed with the Court and prepared a register of claims ("Claims Register") available for inspection at the Court or accessible via the internet on ECF. The Trustee has examined the proofs of claim appearing on the Claims Register and classified them in accordance with the priorities set forth in the U.S. Bankruptcy Code (hereinafter, the "Code"). *The Trustee has also filed objections/motions as to certain claims (shown as claims proposed for disallowance below).* **If any claim is not listed below, the Trustee has not been informed by the Clerk that such a claim exists and has been properly filed with the Court.** Unless a claimant asserting any such unlisted claim, files and serves an objection or response on or before the Response Date, notifying the Court and the Trustee of the claim and provide satisfactory supporting documentation thereof, such claim cannot be allowed or paid except as may otherwise be provided under applicable law. **PLEASE ALSO NOTE:** The order which the Court ultimately enters allowing the below identified claims proposed for allowance or any other claims may be materially different from the order as proposed herein depending upon, among other things, responses or objections to the motion contained herein and the Court's disposition thereof. The Court may rule that additional or other claims may be allowed and added to the below claims proposed for allowance.

A. CLAIMS PROPOSED FOR DISALLOWANCE[3]

The Trustee has filed objections to the allowance of the following claims for the reasons stated in the objections/motions he has filed separately herewith and proposes that said claims be disallowed in full, regardless of claims classification, as follows:

[3] The Court entered orders on September 10, 2012 [Docket No. 423] and October 1, 2012 [Docket No. 441] disallowing Claim Nos. 18 through 33 have been disallowed. This motion and the accompanying objections/motions address all other claims appearing in the Claims Register.

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Secured Claims

Claim No.	Claimant	Amount
2-1	Wells Fargo Bank, N.A	$87,255.10
8-1	Wells Fargo Bank, N.A.	63,440.15
	Total:	$150,695.25

Domestic Support Obligation Claim (11 U.S.C. §507(a)(1)(A) or (a)(1)(B))

Claim No.	Claimant	Amount
17-1	Jill Borodin	$53,340.12

Cost of Administration Claim (11 U.S.C. §507(a)(2))

Claim No.	Claimant	Amount
16-1[4]	Lyman C. Opie	$238,504.64

Unsecured Priority Tax Claim (11 U.S.C. §507(a)(8))

Claim No.	Claimant	Amount
7-1[5]	Department of the Treasury/Internal Revenue Service (IRS)	$5,114.30

General Unsecured Claims

Claim No.	Claimant	Amount
4-1[6]	Chase Bank USA, N.A. (ref# 6457)	$5,047.70
14-1	Peter Zieve	120,000.00
34-1	Abraham Wyner	10,000.00
	Total:	$130,000.00

[4] This claim also includes a claim classified as a general unsecured claim. The Trustee has objected to allowance of the entire claim subject to the Claimant supplementing its claim to cure deficiencies which have been identified in the Trustee's objection.

[5] By letter dated February 13, 2013 which the IRS filed with the Court [Docket No. 487], the IRS stated that its Claim No. 7-1 was no longer in force and effect. Claim No. 7-1, in any event, is duplicative of the IRS' Claim No. 6-1 which is proposed for allowance below. Based upon the IRS' letter, no objection to Claim 7-1 is required and Claim No. 7-1 must be disallowed in accordance with the IRS' statement.

[6] Claimant filed an amended claim, Claim No. 4-2, which supersedes Claim No. 4-1 and thus Claim No. 4-1 must be disallowed. Claim No. 4-2 is proposed for allowance below.

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B. CLAIMS PROPOSED FOR ALLOWANCE

The Trustee proposes the allowance and characterization of claims as follows:

1. Chapter 7 Costs of Administration Claim[7]

The Trustee proposes to allow the following claims as Chapter 7 costs of administration and characterized as marital community and/or as a separate obligation payable from the proceeds of either separate or community property liquidated by the Trustee:

Claim No.	Claimant/Address	Amount
11-1	Office of the United States Trustee	$975.00
12-1	Office of the United States Trustee	1,625.00
	Total:	$2,600.00

2. Unsecured Priority Tax Claim (11 U.S.C. §507(a)(8))

The Trustee proposes to allow the following claim as a priority unsecured tax claim and characterized as a marital community obligation payable from the proceeds of community property liquidated by the Trustee:

Claim No.	Claimant/Address	Amount
6-1	Department of the Treasury/Internal Revenue Service (IRS)	$5,114.30

3. General Unsecured Claims

The Trustee proposes to allow the following claims as general unsecured claims and characterized as marital community obligations payable from the proceeds of community property liquidated by the Trustee:

Claim No.	Claimant/Address	Amount
1-1	Discover Bank (ref# 0579)	$6,416.20

[7] The Trustee believes that these administrative expenses are in effect not subject to any limitations under §726(c) and thus no characterization is proposed in regard thereto.

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Claim No.	Claimant/Address	Amount
3-1	Chase Bank USA N.A. (ref# 3915)	22,281.77
4-2	Chase Bank USA, N.A. (ref# 6457)	5,046.12
5-1	Chase Bank USA N.A. (ref# 7314)	5,285.93
9-1	Franchise Tax Board (California)	11,715.52
10-1	Congregation Beth Shalom: Early Childhood Center Attn: Tzachi Litov	11,148.00
13-1	FIA Card Services, NA, successor to Bank of America and MBNA America Bank (ref# 1484)	35,533.82
15-1	Sallie Mae c/o Sallie Mae Inc.	70,119.76
	Total:	$167,547.12

****

An order will be entered at a later date authorizing disbursement of funds of the estate for payment of allowed claims. After the Trustee pays Chapter 7 costs of administration as allowed by the Court (the exact amount of which cannot be stated at this time), he will pay the claims identified above under "Claims Proposed for Allowance" and such other claims as the Court determines should be allowed. Claims will be paid by priority, pursuant to Code §§ 503, 507, and 726 and other applicable law, with claims in a higher priority fully satisfied before any payment is made on the claim(s) in a lower priority. If after payment of claims in all higher priorities, there are insufficient funds to fully satisfy claims of the next priority, the claimant(s) in that priority shall share the remaining funds pro rata.

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III. CONCLUSION

The Trustee, therefore, requests that the Court enter an order granting the relief as requested above.

DATED this 12th day of July, 2013

KRIEGMAN LAW OFFICE, PLLC

/s/ Bruce P. Kriegman
Bruce P. Kriegman, WSBA #14228
Attorney for Trustee

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UNITED STATES BANKRUPTCY COURT FOR
THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

IN RE: ADAM GROSSMAN, Debtor.	)))))))	CHAPTER 7 CASE NO. 10-19817 ORDER ALLOWING/DISALLOWING CLAIMS AND GRANTING RELATED RELIEF

THIS MATTER came before the Court upon the following: (a) the Trustee's objections/motions relating to Claim Nos. 2-1 and 8-1 of Wells Fargo Bank, N.A., Claim No. 14-1 of Peter Zieve, Claim No. 16-1 of Lyman C. Opie, Claim No. 17-1 of Jill Borodin, and Claim No. 34-1 of Abraham Wyner (hereinafter collectively, the "Trustee's Objections"); and (b) the Trustee's Motion for Order Allowing and Disallowing Claims and Granting Related Relief; and Notice of Hearing (hereinafter, the "Motion"). The Court considered the Trustee's Objections, the Motion and the pleadings and records in the above

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entitled case. The Court finds that notice of the Trustee's Objections and the Motion were properly given, that no objections or responses to the Trustee's Objections or the Motion were filed, that the Trustee's Objections should be sustained and that the claims that are subject thereto should be disallowed, and that the relief requested in the Motion should be granted in all respects. NOW, THEREFORE,

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Trustee's Objections are sustained.

2. The Motion is granted.

3. DISALLOWED CLAIMS

The following claims are disallowed:

a. Claim No. 2-1 of Wells Fargo Bank, N.A. for $87,255.10;

b. Claim No. 4-1 of Chase Bank (USA), N.A. for $5,047.70;

c. Claim No. 8-1 of Wells Fargo Bank, N.A. for $63,440.15;

d. Claim No. 14-1 of Peter Zieve for $120,000.00;

e. Claim No. 16-1 of Lyman C. Opie for $238,504.64;

f. Claim No. 17-1 of Jill Borodin for $52,340.02; and

g. Claim No. 34-1 of Abraham Wyner for $10,000.00.

4. ALLOWED CLAIMS

The following claims are allowed and characterized as indicated:

a. Chapter 7 Costs of Administration Claim

The following claims are allowed as Chapter 7 costs of administration and characterized as a marital community and/or separate obligation payable from the proceeds of either separate or community property liquidated by the Trustee:

Claim No.	Claimant/Address	Amount
11-1	Office of the United States Trustee	$975.00

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Claim No.	Claimant/Address	Amount
12-1	Office of the United States Trustee	1,625.00
	Total:	$2,600.00

b. Priority Unsecured Tax Claim (11 U.S.C. §507(a)(8))

The following claim is allowed as an unsecured priority tax claim and characterized as marital community obligation payable from the proceeds of community property liquidated by the Trustee:

Claim No.	Claimant/Address	Amount
6-1	Department of the Treasury/Internal Revenue Service (IRS)	$5,114.30

3. General Unsecured Claims

The following claims are allowed as general unsecured claims and characterized as marital community obligations payable from the proceeds of community property liquidated by the Trustee:

Claim No.	Claimant/Address	Amount
1-1	Discover Bank (ref# 0579)	$6,416.20
3-1	Chase Bank USA N.A. (ref# 3915)	22,281.77
4-2	Chase Bank USA, N.A. (ref# 6457)	5,046.12
5-1	Chase Bank USA N.A. (ref# 7314)	5,285.93
9-1	Franchise Tax Board (California)	11,715.52
10-1	Congregation Beth Shalom: Early Childhood Center Attn: Tzachi Litov	11,148.00
13-1	FIA Card Services, NA, successor to Bank of America and MBNA America Bank (ref# 1484)	35,533.82
15-1	Sallie Mae c/o Sallie Mae Inc.	70,119.76
	Total:	$167,547.12

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5. No other claims shall be allowed except as the Court may order at a later date.

6. Upon entry of an order authorizing disbursement, the claim allowed above shall be paid by priority, pursuant to Code §§ 503, 507, and 726 and other applicable law, with claims in a higher priority fully satisfied before any payment is made on the claims in a lower priority. If after payment of claims in all higher priorities, there are insufficient funds to fully satisfy claims of the next priority, the claimants in that priority shall share the remaining funds pro rata.

///END OF ORDER///

Presented by:

KRIEGMAN LAW OFFICE, PLLC

/s/ Bruce P. Kriegman
Bruce P. Kriegman, WSBA #14228
Attorney for Trustee

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